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U.S. Department of Homeland Security

Citizenship and Immigration Services

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ADMINISTRATIVE APPEALS OFFICE  
CIS, AAO, 20 Mass, 3/F  
425 Eye Street N.W.  
Washington, D.C. 20536

File:

Office: Texas Service Center

Date:

**JAN 06 2004**

IN RE: Applicant:

Application: Application for Temporary Protected Status under Section 244 of the Immigration and Nationality Act, 8 U.S.C. § 1254

ON BEHALF OF APPLICANT: Self-represented

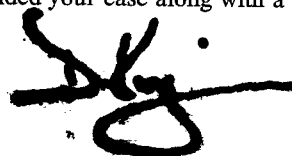
**INSTRUCTIONS:**

This is the decision in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.

If you believe the law was inappropriately applied or the analysis used in reaching the decision was inconsistent with the information provided or with precedent decisions, you may file a motion to reconsider. Such a motion must state the reasons for reconsideration and be supported by any pertinent precedent decisions. Any motion to reconsider must be filed within 30 days of the decision that the motion seeks to reconsider, as required under 8 C.F.R. § 103.5(a)(1)(i).

If you have new or additional information that you wish to have considered, you may file a motion to reopen. Such a motion must state the new facts to be proved at the reopened proceeding and be supported by affidavits or other documentary evidence. Any motion to reopen must be filed within 30 days of the decision that the motion seeks to reopen, except that failure to file before this period expires may be excused in the discretion of Citizenship and Immigration Services (CIS) where it is demonstrated that the delay was reasonable and beyond the control of the applicant or petitioner. *Id.*

Any motion must be filed with the office that originally decided your case along with a fee of \$110 as required under 8 C.F.R. § 103.7.



Robert P. Wiemann, Director  
Administrative Appeals Office

**DISCUSSION:** The application was denied by the Director, Texas Service Center, and is now before the Administrative Appeals Office on appeal. The appeal will be dismissed.

The applicant is a native and citizen of Honduras who indicated on his application that he entered the United States on February 28, 1989, on a combined transit and crewman visa (C-1/D). The director denied the application for Temporary Protected Status (TPS) under section 244 of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1254, because the applicant failed to establish he was eligible for late registration.

On appeal, the applicant asserts that he did not file an application for TPS during the initial registration period because he was informed that individuals who had a criminal record would not qualify and would be deported. The applicant requested that his application be reconsidered.

Section 244(c) of the Act, and the related regulations in 8 C.F.R. § 244.2, provide that an applicant who is a national of a foreign state designated by the Attorney General is eligible for temporary protected status only if such alien establishes that he or she:

- (a) Is a national, as defined in section 101(a)(21) of the Act, of a foreign state designated under section 244(b) of the Act;
- (b) Has been continuously physically present in the United States since the effective date of the most recent designation of that foreign state;
- (c) Has continuously resided in the United States since such date as the Attorney General may designate;
- (d) Is admissible as an immigrant except as provided under section 244.3;
- (e) Is not ineligible under 8 C.F.R. § 244.4; and
- (f)
  - (1) Registers for TPS during the initial registration period announced by public notice in the *Federal Register*, or
  - (2) During any subsequent extension of such designation if at the time of the initial registration period:
    - (i) The applicant is a nonimmigrant or has been granted voluntary departure status or any relief from removal;
    - (ii) The applicant has an application for

change of status, adjustment of status, asylum, voluntary departure, or any relief from removal which is pending or subject to further review or appeal;

(iii) The applicant is a parolee or has a pending request for reparole; or

(iv) The applicant is a spouse or child of an alien currently eligible to be a TPS registrant.

- (g) Has filed an application for late registration with the appropriate Service director within a 60-day period immediately following the expiration or termination of conditions described in paragraph (f) (2) of this section.

The term continuously physically present, as used in 8 C.F.R. § 244.1, means actual physical presence in the United States since January 5, 1999. An alien shall not be considered to have failed to maintain continuous physical presence in the United States by virtue of brief, casual, and innocent absences as defined within this section.

The term continuously resided, as used in 8 C.F.R. § 244.1, means residing in the United States for the entire period specified in the regulations and since December 30, 1998. An alien shall not be considered to have failed to maintain continuous residence in the United States by reason of a brief, casual, and innocent absence as defined within this section or due merely to a brief temporary trip abroad required by emergency or extenuating circumstances outside the control of the alien.

Persons applying for TPS offered to Hondurans must demonstrate that they have continuously resided in the United States since December 30, 1998, and that they have been continuously physically present since January 5, 1999. On May 11, 2000, the Attorney General announced an extension of the TPS designation until July 5, 2001. Subsequent extensions of the TPS designation have been granted, with the latest extension valid until January 5, 2005, upon the applicant's re-registration during the requisite period.

The initial registration period for Hondurans was from January 5, 1999, through August 20, 1999. The record reflects that the applicant filed his application for TPS with the legacy Immigration and Naturalization Service on August 28, 2002.

To qualify for late registration, the applicant must provide evidence that during the initial registration period, he or she was either in a valid immigration status, had an application pending for relief from removal, was a parolee, or was the spouse or child of an alien currently eligible to be a TPS registrant, and he or she had filed an application for late registration within 60 days of the expiration or termination of the conditions described in 8

C.F.R. § 244.2(f)(2).

The burden of proof is upon the applicant to establish that he or she meets the above requirements. Applicants shall submit all documentation as required in the instructions or requested by CIS. 8 C.F.R. § 244.9(a). The sufficiency of all evidence will be judged according to its relevancy, consistency, credibility, and probative value. To meet his or her burden of proof the applicant must provide supporting documentary evidence of eligibility apart from his or her own statements. 8 C.F.R. § 244.9(b).

The FBI record reveals that on or about October 1, 1994, the applicant was arrested by the Metro-Dade Police Department (Florida) for driving under the influence.

On March 4, 2003, the applicant was provided the opportunity to submit evidence establishing his eligibility for late registration as set forth in 8 C.F.R. § 244.2(f)(2). The applicant was requested to submit a legible photo identity document, the court dispositions for all arrests including the arrest on October 1, 1994, and evidence establishing his residence in the United States since December 30, 1998, and his physical presence in the United States from January 5, 1999. The applicant, in response, provided:

- (1) a copy of his Honduran passport;
- (2) a copy of his Florida driver's license issued on May 11, 2001;
- (3) a copy of his May 17, 2002, marriage license;
- (4) a receipt from Pinolero Deliveries in Miami, Florida dated December 21, 1998;
- (5) a receipt from Rincon de San Lazaro Church in Hialeah, Florida dated December 12, 1999;
- (6) Nextel billing statements dated November 25, 2001, and March 1, 2003;
- (7) a moneygram receipt dated December 16, 2001;
- (8) a Florida Department of Motor Vehicle printout of his driving history which reveals three misdemeanor convictions;
- (9) documentation from Miami-Dade Police Department regarding his arrest and subsequent conviction on October 13, 1994, of driving under the influence; and
- (10) a letter dated March 25, 2001, from Rev. Orlando Molina of Unidad Patriotica Nicaraguenese in Miami, Florida indicating that the applicant applied for TPS in 1999, but did not receive "any notice."

The burden of proof is upon the applicant to provide credible

documentary evidence to support a claim that he had initially filed an application for TPS in 1999. Except for Rev. Molina's statement, no credible evidence has been presented by the applicant. It is noted that evidence in the record reveals money order receipts addressed to the legacy Immigration and Naturalization Service, now CIS, but dated May 29, 2000.

The applicant has not submitted any evidence to establish that he has met any of the criteria for late registration described in 8 C.F.R. § 244.2(f)(2). Consequently, the director's decision to deny the application for temporary protected status will be affirmed.

Beyond the decision of the director, the record reveals that the applicant is ineligible for TPS because of his three misdemeanor convictions. In addition, the applicant has failed to submit evidence of his qualifying residence and physical presence in the United States. As the appeal will be dismissed on the ground stated above, these issues need not be examined any further.

An alien applying for temporary protected status has the burden of proving that he or she meets the requirements enumerated above and is otherwise eligible under the provisions of section 244 of the Act. The applicant has failed to meet this burden.

**ORDER:** The appeal is dismissed.